

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

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JAZZ PHARMACEUTICALS, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 21-691 (GBW)
	)	
AVADEL CNS PHARMACEUTICALS LLC,	)	
	)	
Defendant.	)	

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JAZZ PHARMACEUTICALS, INC. and	)	
JAZZ PHARMACEUTICALS IRELAND	)	
LIMITED,	)	
	)	
Plaintiffs,	)	
	)	C.A. No. 21-1138 (GBW)
v.	)	
	)	
AVADEL CNS PHARMACEUTICALS LLC,	)	
	)	
Defendant.	)	

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JAZZ PHARMACEUTICALS, INC. and	)	
JAZZ PHARMACEUTICALS IRELAND	)	
LIMITED,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	C.A. No. 21-1594 (GBW)
	)	
AVADEL CNS PHARMACEUTICALS LLC,	)	
	)	
Defendant.	)	

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**STIPULATION AND [PROPOSED] ORDER  
REGARDING CLAIM CONSTRUCTION SCHEDULE & HEARING**

WHEREAS, the Court has Ordered (D.I. 332) the parties to file a joint submission explaining whether (a) they maintain their request for a claim construction hearing regarding the

issues raised in their Supplemental Joint Claim Construction Brief (D.I. 310), and (b) propose an approximate week or date range to hold such a hearing;

WHEREAS, during the course of expert discovery additional claim construction disputes have arisen regarding whether the preambles claims 1 and 11 of U.S. Patent No. 10,959,956, claim 1 of U.S. Patent No. 10,966,931, and claims 1 and 10 of U.S. Patent No. 11,077,079 regarding methods of treatment are limiting, what the constructions of those preambles should be if they are limiting, the construction of the term “a single daily dose” in claims 1 and 10 of the ’079 patent, and the construction of the “wherein” clauses in claims 5 and 14 of the ’079 patent; and

WHEREAS, the parties have met and conferred and agree, subject to the Court’s approval, on the schedule below for briefing the additional claim construction issues, and for holding a claim construction hearing regarding the issues raised in the Supplemental Joint Claim Construction Brief (D.I. 310) and the additional disputed claim terms identified above;

IT IS HEREBY STIPULATED AND AGREED, by the Parties, subject to approval of the Court, that the following schedule shall apply for the outstanding claim construction issues:<sup>1</sup>

Event	Date
Jazz’s Opening <i>Markman</i> Brief (2,000 word limit)	<del>August 4, 2023</del> August 11, 2023
Avadel’s Responsive <i>Markman</i> Brief (3,500 word limit)	<del>August 25, 2023</del> September 1, 2023
Jazz’s Reply <i>Markman</i> Brief (3,000 word limit)	<del>September 15, 2023</del> September 22, 2023
Avadel’s Sur-Reply <i>Markman</i> Brief (1,500 word limit)	<del>September 29, 2023</del> October 6, 2023
Parties file joint second supplemental <i>Markman</i> brief	October 1, 2023
<i>Markman</i> hearing	Week of October 16, 2023, <del>subject to the Court’s</del> availability October 25, 2023, at 1 pm

<sup>1</sup> At Avadel’s request, Jazz confirms that Jazz’s statement in the parties’ Supplemental Joint Claim Construction Brief that Avadel’s allegation of claim copying is “unsupported and incorrect” (D.I. 310 at 22) is based on differences between the claims that can be seen from the face of the patent, and not on any privileged information.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

*/s/ Jeremy A. Tigan*

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July 21, 2023

MCCARTER & ENGLISH, LLP

*/s/ Alexandra M. Joyce*

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SO ORDERED this 4<sup>th</sup> day of August, 2023.

  
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United States District Court Judge